

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ANTHONY BONELLI and U.S. POSTAL SERVICE,  
GENERAL MAIL FACILITY, Trenton, NJ

*Docket No. 99-1950; Submitted on the Record;  
Issued April 16, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant has established recurrences of disability commencing August 8 or October 14, 1997, causally related to his employment injury.

On June 21, 1993 appellant, then a 42-year-old letter sorting machine clerk, filed a claim alleging that he sustained a cervical injury causally related to his employment duties.<sup>1</sup> The Office of Workers' Compensation Programs accepted a herniated disc at C6-7. Appellant returned to a limited-duty position. On November 21, 1997 appellant filed notices of recurrence of disability commencing August 8 and October 14, 1997.

In a decision dated February 20, 1998, the Office denied the claims for recurrence of disability. By decision dated March 11, 1999, an Office hearing representative affirmed the prior decision.

The Board finds that appellant has not met his burden of proof to establish a recurrence of disability commencing on August 8 or October 14, 1997.

When an employee, who is disabled from the job he held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that light duty can be performed, the employee has the burden to establish by the weight of reliable, probative and substantial evidence a recurrence of total disability. As part of this burden of proof, the employee must show either a change in the nature and extent of the injury-related condition, or a change in the nature and extent of the light-duty requirements.<sup>2</sup>

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<sup>1</sup> Appellant also has a separate claim for carpal tunnel syndrome that is not before the Board on this appeal.

<sup>2</sup> *Terry R. Hedman*, 38 ECAB 222 (1986).

In this case, the medical evidence of record is not sufficient to establish a recurrence of disability commencing on either August 8 or October 14, 1997.<sup>3</sup> In a report dated August 27, 1997, Dr. John J. DiBiase, an orthopedic surgeon, stated that appellant needed a cervical traction unit due to his cervical degenerative disc disease; he did not discuss disability commencing August 8, 1997.

In a form report (CA-20a) dated November 25, 1997, Dr. Thomas J. Capotosta, an orthopedic surgeon, diagnosed a herniated C6-7 disc with cervical radiculopathy. The “period compensation is claimed” is August 8 to 28, 1997, but Dr. Capotosta does not discuss disability for work or provide other details to support an employment-related disability for the period claimed.<sup>4</sup>

In a report dated January 19, 1999, Dr. Capotosta stated that he had reviewed appellant’s chart, noting that appellant had ongoing degenerative joint disease of the cervical spine. He further stated, “I found that we had medically advised the patient to be out of work from August 8 to 28, 1997 and again from October 14 through November 10, 1997. I would expect the patient, who is a postal clerk, to intermittently have recurrences of his neck and low back pain. Certainly, his position as a postal clerk has a potential to aggravate these preexisting conditions and he may from time to time need time off from work but I think this is a legitimate sickness.”

Dr. Capotosta does not, however, indicate whether appellant was examined on August 8 and October 14, 1997, and if so, discuss the findings on examination and explain how the employment-related condition had changed to cause disability for work during the periods claimed. The diagnosis appears to be degenerative disc disease, which is not an accepted condition, and Dr. Capotosta does not provide a reasoned opinion on causal relationship with the employment injury.

The record does not contain a reasoned medical opinion that establishes appellant was disabled from August 8 to 28 and October 14 to November 10, 1997 due to an employment-related condition. Accordingly, the Board finds that appellant did not meet his burden of proof in this case.

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<sup>3</sup> To meet appellant’s burden of proof, the medical evidence must provide a reasoned medical opinion based on a complete and accurate background. *See Carolyn F. Allen*, 47 ECAB 240 (1995).

<sup>4</sup> Dr. Capotosta also submitted a November 25, 1997 form report in which the period of compensation claimed is October 14 to November 10, 1997.

The March 11, 1999 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
April 16, 2001

David S. Gerson  
Member

Willie T.C. Thomas  
Member

Priscilla Anne Schwab  
Alternate Member